



**Supporting Arizona families of
children with disabilities or
special health needs**

**Guardianship: Making the decision
Understanding the process**

Learning Objectives



Participants will learn:

- Guardianship, Responsibilities and Types
- The Process of Becoming a Guardian
- Alternatives to Guardianship
- Parent Perspective and Experience



Family Experience



- Finding the right balance between allowing independence and protection.
 - Role of parents
- All parents struggle with the gravity of these issues.
- For parents of young adults with disabilities there are an extra set of concerns involving continuity of care throughout the life span.
- There are alternatives to guardianship that may be appropriate for your young adult.
- Only you and your family can make the determination.

Disclaimer



- We are not *lawyers* and can not give you legal advice
- You should consult an attorney for any legal questions
- *Federal and state laws are subject to change*

What is a Guardianship?



Guardianship is when a person is appointed by a court to provide care and make decisions by informed consent for a person who has been incapacitated and is often referred to as a “ward”.



When a youth reaches the **age of majority** on their 18th birthday; what decisions need to be made?



Is Guardianship Needed?



- Is the person at risk of:
 - Being misguided by others
 - Making a decision that could put them in danger

Responsibilities of Guardian



To seek services that are in the best interest of the person.

Taking into consideration....



Are You Liable for Ward's Actions?



If a guardian has carried out his duties as assigned by the court order in the guardianship proceedings and have done this "best" to fulfill court obligations with informed consent, the guardian would not be liable for his ward's actions.



Types of Guardianship



- Full Guardianship
- Limited Guardianship
- Guardian Ad Litem
- Temporary Guardian

(Guardians can expect yearly home visits by the courts and court appointed attorney to insure best interest of ward)

Guardianship is stronger than Power of Attorney

Full Guardianship



The guardian has responsibility for:

- Living Arrangements
- Education
- Social Activities
- Medical Care
- Right to Marry

This person cannot vote in elections or drive a car.

Limited Guardianship



The person filing for guardianship can request that the court limit the person's rights in certain areas:

- Contracts
- Healthcare choices



Guardian Ad Litem



Appointed by the court for special protection; effective immediately

- specified time
- single action
- limited purpose



Temporary Guardian



Can be appointed by the court in the event of an emergency, this process requires representation by an attorney.



Fee Waivers

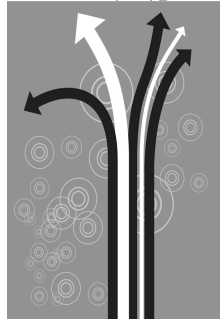


- Fees are charged that initiate any court action
- You can obtain paperwork to waive fees at the courthouse to present during trial



Change in Guardian

- A guardianship may be changed at any time it is shown that a change is in the best interest of a protected person
- Any change in guardian requires a petition filed in court.



Termination of Guardianship

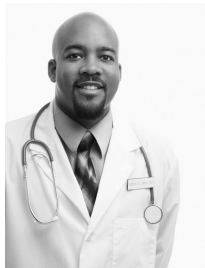


- Terminates upon the death of the guardian or ward
- Resignation of the guardian
- Determination that the ward no longer needs a guardian
- Determination that the guardian has become unable to serve as a guardian



Mental Health Issues and Guardianship

Any guardianship document containing mental health provisions must be renewed annually by a neuro-psychologist or psychiatrist.



Document Review



- Annual reporting is required for guardianship
- Review documents on a yearly basis and change any outdated information
- Additional documentation is required:
 - Mental Health
 - Financial



Alternatives to Guardianship



Many families choose the **least restrictive** options regarding guardianship for managing individual's rights to their life decisions.

(Power of Attorney)



Other Legal Options



- Conservatorship
- Power of Attorney
- Advanced Directives for Health and Mental Health
- Prehospital Medical Care Directive
- Living Will



Other Legal Options (cont.)

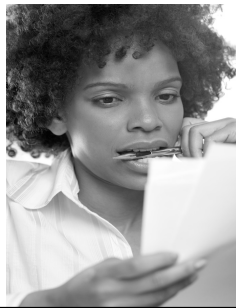


- Designated Representative in Mental Health Care
- Special Educations Transfer of Rights
- Trusts
- Designated Representative in the Vocational Rehabilitation Program
- Representative Payee for Social Security

Guardianship or Conservatorship?



- A guardian makes decisions about the person
- A conservator makes decisions about the person's assets or estate



Conservatorship



A conservator can be appointed by the courts to protect assets for a person with a developmental disability or mental health issue because their assets could be wasted or dissipated.

No Relatives Available



- **Public** Fiduciary is a court appointed person to help with conservatorship
- **Private** Fiduciary is a company that may charge for their services to help with conservatorship.



Power of Attorney



- Durable General (Financial) Power of Attorney
- Durable Health Care Power of Attorney



Durable General (Financial) Power of Attorney



This document gives someone else the authority to handle his or her financial affairs now or in the future.



How is Durable Power of Attorney Used?

- Paying bills
- Managing property
- Investments
- Balancing their checkbook
- Signing legal documents



Any substantial property, money, or assets that need management should seek conservatorship



Durable Health Care Power of Attorney

Gives someone else the right to handle health care decisions now or in the future.



Representative Payee Money from Social Security

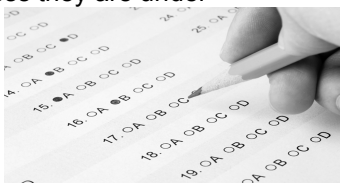
A person or organization who receives Social Security benefits (SSI or SSDI) on behalf of a beneficiary for use in paying bills, spending money, or making payments in the best interest of the beneficiary.



Special Education Transfer of Rights



When a student who has a disability reaches age 18 (no longer a minor), all rights under special education law go to the student, unless they are under guardianship.



Why Is Transfer of Rights Needed?



If student is still attending high school and receiving parental assistance in the IEP process, transferring the rights may be beneficial.



Parent to Parent Connection



Would it be helpful to speak with another parent that has experienced this journey?



Mission Statement



To support and encourage families on the challenging journey of raising children with disabilities and special health needs.

We do this so families can maximize their abilities to successfully navigate through today's world.



Comprehensive Family Resource Center



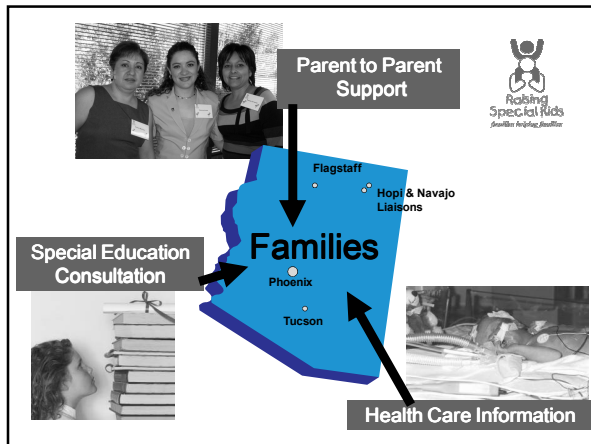
- Serving all of Arizona with staff in Phoenix, Flagstaff, Tucson, and the areas of Hopi Tribe and Navajo Nation
- 501(c)(3) Nonprofit organization
- Founded in 1979
- Staffed by family members of children with disabilities and special health needs

Our Services



- Are **no cost** to families
- Available in English and Spanish
- Support families of diverse culture, structure and background





Our Focus is on Families

Family Credo

We believe that experienced families are a key source of knowledge and support to help new parents acquire essential skills in becoming effective advocates for their children.

We believe that professionals are important allies for families. The shared wisdom, counsel, respect and support creates magnified positive outcomes for children.

We believe in supporting the role of the family in establishing public policy, and promoting public awareness related to families and disabilities.

We believe that parents who model effective self-advocacy encourage a child's pursuit of his or her own dream.

Raising Special Kids Referral Process

- Obtain consent from the family to be referred
- Contact Raising Special Kids (phone, e-mail, fax, or letter) and send copy of referral form signed by family with their information
- Raising Special Kids staff contacts the family member within 48 hours with appropriate support, training, and information
- If a Parent to Parent connection is desired, staff arranges the match and follows up with both parties after the connection
- 100% follow up with the referral source
- Referral forms are available on our website www.raisingpecialkids.org or by calling our office 602-242-4366 or 800-237-3007.
- In Northern Arizona 928-523-4870.
